72-662

MICHAEL ROD

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

72-
NO. 662

JAN T. BATA, Individually and as Representative of the Estate of Jan A. Bata, Deceased

Petitioner

v.

THOMAS J. BATA

and

CENTRAL-PENN NATIONAL BANK OF PHILADELPHIA

Respondents

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PENNSYLVANIA

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PRESS OF ALLEN, LANE & SCOTT, PHILADELPHIA

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Petitioner respectfully requests that this court grant rehearing of its order dated January 8, 1973 which denied certiorari, and that the court now grant certiorari.

The deprivation of the rights and property of the defendant citizens of Brazil now in a weak and handicapped status, carried out in the Courts below in flagrant violation of the rights of due process under the Constitution of the United States and of the Treaties between Brazil and the United States, and in conflict with the decisions of this Court, in this matter, involving one of the most outstanding industrial families of the world, and a

complex of corporations and holding companies over 100 in number and with a valuation of over $500,000,000; in favor of the holder of immense concentrated economic and financial power engaged in oppressive conduct; and the declination of a review of that violation of due process; will have a probable result of a reaction in Brazil that would foster the deprivation of the rights and properties of citizens of the United States, and a possible spreading and deteriorating effect upon the respect for the rights of citizens of the United States within foreign states.

This is the probable result, especially because the proceedings in the Court below, in taking the property of the defendants and in decreeing that these citizens of Brazil should be closed off from resort to "any courts of any nation" (including Brazil), and in doing so without a trial, with the prohibition of any opportunity to have discovery upon the plaintiff, and summarily on the basis of an amendment of the original complaint made five years after the original judgment; is not only a violation of due process under the Constitution of the United States and the Treaties between Brazil and the United States, and in conflict with the decisions of this Court, but also a violation of the general international law concepts of the basic elements of due process. Restatement (Second) Foreign Relations Law of the United States, Sections 165, 180, 181 (1965)

The foregoing additional reason for granting a Writ of Certiorari was available to the Petitioner at the time of presenting the original Petition, but Petitioner's counsel did not become aware of the depth and intensity of this reaction until a journey to Brazil on January 16, 17 and 18, 1973.

This reason is therefore presented in this Petition for Rehearing as a grounds for granting the rehearing and granting the Writ of Certiorari so that the decision of the Courts below may be reviewed by this Court.

The deteriorating influence upon the respect within the other countries of the judicial processes of the United States, which it is submitted will follow the future study and review of this case within other countries, is a consequence of great significance to the United States and its citizens. This Court is requested respectfully to take judicial notice of the growing threat within other nations to the rights and property of citizens of the United States.

Respondent's number one reason given for denying the Petition was its assertion that "no other litigants will be in any way affected by the judgment below." Respondents brief page 8 Section I

It is submitted that not only all other litigants, but all citizens of the United States will be affected in the direct and indirect consequences of permitting this extreme and inequitable decree, entered in flagrant violation of the rights of due process as set forth by this Court in its decisions, to stand without review.

CONCLUSION

It is respectfully petitioned that for the reasons set forth in this Petition for Rehearing, as well as in the petition for certiorari previously filed, a rehearing of the Order denying the Petition for Writ of Certiorari be granted, and that the Writ of Certiorari to the Supreme Court of Pennsylvania be granted.

Respectfully submitted,

/s/ HAROLD E. STASSEN

HAROLD E. STASSEN

/s/ JOSEPH N. BONGIOVANNI, JR.

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February 2, 1973

CERTIFICATE OF COUNSEL

Pursuant to Rule 58, I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay, and is restricted to the grounds specified in paragraph 2 of Rule 58.

/s/ HAROLD E. STASSEN

HAROLD E. STASSEN